

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Citizens Telecommunications Company)	
of North Dakota)	
)	
Red River Rural Telephone Association and)	
Red River Telecom, Inc.)	
)	
Polar Telecommunications, Inc.)	CC Docket No. 96-45
)	
Dickey Rural Telephone Cooperative and)	
Dickey Rural Access, Inc.)	
)	
Joint Petition for Waiver of the Definition of)	
“Study Area” Contained in Part 36, Appendix –)	
Glossary of the Commission’s Rules)	
)	
Petition for Waiver of Section 61.41(c) and (d),)	
Section 69.3(e)(11) and 69.605(c) of the)	
Commission’s Rules)	

COMMENTS

The National Exchange Carrier Association, Inc. (NECA) submits these comments in response to the Commission's May 6, 2002 *Public Notice* in the above-captioned proceeding.¹ NECA supports grant of the *Joint Petition*.²

¹ See Dickey Rural Telephone Cooperative, Dickey Rural Access, Inc., *et. al.*, Seek a Waiver of the Definition of “Study Area” in Part 36 and Sections 61.41(c) and (d), 69.3(e)(11) and 69.605(c) of the Commission’s Rules, CC Docket No. 96-45, *Public Notice*, 17 FCC Rcd 8270 (2002) (*Public Notice*).

² See *Joint Petition for Expedited Waivers* of Dickey Rural Telephone Cooperative, Dickey Rural Access, Inc., Polar Telecommunications, Inc., Red River Rural Telephone Association, Red River Telecom, Inc., and Citizens Telecommunications Company of

On April 5, 2002, Citizens Telecommunications Company of North Dakota (Citizens), Dickey Rural Telephone Cooperative and Dickey Rural Access (Dickey Rural), Polar Telecommunications Inc. (Polar), and Red River Telephone Association and Red River Telecom, Inc. (Red River) filed a joint petition for waiver of the definition of “study area” contained in the Commission’s rules to allow Citizens to alter the boundary of its existing study area in North Dakota to remove the Gwinner, Lisbon, Pembina, Wyndmere, and Fairmount exchanges and to allow Dickey Rural, Polar, and Red River to add these exchanges to their existing North Dakota study areas.³ In addition Dickey Rural seeks a wavier of the section 61.41(c) and (d)⁴ to exempt it from the Commission’s “all-or-nothing” rules so that it may continue to be regulated under rate-of-return once the assets of Citizens are acquired.⁵ Also, Polar and Red River seek a waiver of the definition of “average schedule company” in section 69.605(c)⁶ so that they may operate their newly acquired exchanges as average schedule, and Dickey Rural, Polar and

North Dakota, CC Docket No. 96-45 (filed April 5, 2002) (*Joint Petition*). The companies will be referred to collectively as “Petitioners.”

³ Citizens is selling the Gwinner (588 lines) and Lisbon (1904 lines) exchanges to Dickey Rural, the Pembina exchange (635 lines) to Polar, and the Wyndmere (649 lines) and Fairmount (379 lines) exchanges to Red River. Collectively these exchanges serve about 4100 access lines. *See Joint Petition* at 2.

⁴ 47 C.F.R. § 61.41(c)-(d). Section 61.41(c) requires non-price cap companies, and telephone companies with which they are affiliated, to become subject to price cap regulation after acquiring a price cap company or any part thereof. Section 61.41(d) makes local exchange carriers that become subject to price cap regulation ineligible to withdraw from such regulation.

⁵ *See Joint Petition* at 2.

⁶ *Id.* Section 69.605(c) defines an “average schedule company” as a telephone company that was participating in average schedule settlements on December 1, 1982. 47 C.F.R. § 69.605(c).

Red River seek a waiver of Section 69.3(e)(11)⁷ to allow the acquired exchanges to participate in the NECA common line and traffic sensitive pools as soon as the acquisition is completed.⁸

Petitioners state that subscribers in all exchanges will benefit from grant of the waivers because the acquiring companies all have proven records of providing high quality telecommunications facilities and services to residents and business in rural North Dakota and intend to offer advanced services and an expanded list of vertical services.⁹ Therefore, grant of the study area waivers is in the public interest. In addition, the Petitioners have supplied letters from the North Dakota Public Service Commission and the Minnesota Public Utilities Commission¹⁰ approving the transfer of exchanges and stating that neither commission objects to the request for waiver of the FCC's study area rule.¹¹

Finally, Dickey Rural, Polar, and Red River point out that grant of a waiver of section 69.3(e)(11) will allow them to include the acquired exchanges in the NECA pools

⁷ 47 C.F.R. § 69.3(e)(11). This rule provides that changes in NECA common line tariff participation resulting from merger or acquisition are to be made effective on the next annual access tariff filing effecting date following closing of the transaction.

⁸ See *Joint Petition* at 2.

⁹ See *Joint Petition* at 16-17.

¹⁰ A small number of customers served out of the Pembina and Fairmount exchanges are located in Minnesota. See *Joint Petition* at 2.

¹¹ See *Supplement to the Joint Petition for Expedited Waivers* of Dickey Rural Telephone Cooperative, Dickey Rural Access, Inc., Polar Telecommunications, Inc., Red River Rural Telephone Association, Red River Telecom, Inc., and Citizens Telecommunications Company of North Dakota, CC Docket No. 96-45 (filed May 13, 2002) (*Supplement to Joint Petition*).

upon the closing date of the transaction, thus allowing them to avoid the administrative and financial burden associated with filing their own interstate access tariffs.¹²

For these reasons NECA supports grant of the requested waivers. Further, NECA affirms that the proposed addition of lines to the common line pool will not significantly impact common line pool revenue requirements and will not impose any undue administrative burdens on NECA.

Respectfully submitted,

NATIONAL EXCHANGE CARRIER
ASSOCIATION, INC.

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¹² See *Joint Petition* at 13-14.

Certificate of Service

I hereby certify that a copy of the Comments was served this 5th day of June 2002, by electronic delivery or first class mail to the persons listed below.

By: /s/ Shawn O'Brien
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The following parties were served:

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